

The How and Why of Proper Records Destruction

Destroying Public Records Correctly



records@sos.ri.gov



401-222-2353



sos.ri.gov



@RISecState

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Nellie M. Gorbea
Secretary of State

Overview of the State Archives and Public Records Administration

The Rhode Island State Archives and Public Records Administration oversees records management functions for all state and municipal agencies. This includes records management advice, assistance, and consultation. Records management is a comprehensive task encompassing all records, regardless of format or media.

This guide is intended to serve as a resource providing information on the requirements of lawful records destruction and technical recommendations for the physical destruction of records in all formats.

Things to Know

What is a public record?

Public records include all documents, papers, letters, maps, books, digital or other media, and other materials, regardless of physical form or format, that were made or received in connection with the transaction of official business by any state agency.

Can public records be destroyed?

Yes, following a specific procedure.

Public records cannot be destroyed in any way without the consent of the Public Records Administration program of the Secretary of State.

What rules govern destruction of public records?

The act of disposing of public records is outlined in three (3) sections of the Rhode Island General Laws, “Disposal of records” ([R. I. Gen. Laws § 38-1-10](#)), “Public records custody and disposal” ([R. I. Gen. Laws § 38-3-6](#)), and “Determination of value” ([R. I. Gen. Laws § 42-8.1-10](#)).

How can public records be disposed?

When public records have met their retention requirements set forth in a Records Control schedules, agencies may begin the process of records destruction by completing a list of all records to be disposed of, together with a statement certifying compliance, the Certification of Records Destruction (CRD). This CRD must be signed by the agency and the State Archivist prior to destruction of records. Once records are destroyed, the CRD is filed and permanently preserved in the office from which the records were created or received.

What would make public records ineligible for being disposed?

If the record(s) is relevant to any pending or anticipated litigation or other proceeding, the record(s) should be held past the minimum retention period. If any record is deemed of permanent value, for historical, legal, fiscal, or other reasons, those records shall never be disposed.

Government officials should consult with their legal counsel, municipal solicitor, or their administration to determine if any records eligible for destruction may be involved in current, pending, or anticipated litigation, any government investigation or regulatory proceeding, or request under the Access to Public Records Act ([R.I. Gen. Laws Chapter 38-2](#)).

Additional Considerations

Can all public records be disposed of in the same way?

No. There is also a Rhode Island General Law entitled "[R.I. Gen. Laws Chapter 6-52 - Safe Destruction of Documents Containing Personal Information](#)," which went into effect in 2009.

This law outlines safe destruction of certain types of documents. Below are some particularly important excerpts from the law (emphasis added):

[R. I. Gen. Laws § 6-52-1. Definitions.](#)

(1) "Business" means a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this state or any other state, or the parent, affiliate, or subsidiary of a financial institution. This term includes any entity that destroys records, including, but not limited to, the state, a state agency, or any political subdivision of the state.

(3) "Personal information" means the following information that identifies, relates to, describes, or is capable of being associated with a particular individual: his or her signature; social security number; physical characteristics or description; passport number; driver's license or state identification card number; insurance policy number; bank account number; credit card number; debit card number; any other financial information or confidential health care information, including all information relating to a patient's health care history; diagnosis condition; treatment; or evaluation obtained from a health care provider who has treated the patient which explicitly or by implication identifies a particular patient.

R. I. Gen. Laws § 6-52-2. Safe destruction of documents.

A business shall take reasonable steps to destroy or arrange for the destruction of a customer's personal information within its custody and control that is no longer to be retained by the business by shredding, erasing, or otherwise destroying and/or modifying the personal information in those records to make it unreadable or indecipherable through any means...

Common Methods of Destruction

Best Practices for the Efficient and Secure Destruction of Paper Documents

Shredding

Shredding is appropriate for paper and some portable electronic media such as CDs/DVDs and floppy disks. Shredding may be done in-house.

Shredding includes straight-cut or crosscut. The Rhode Island State Archives and Public Records Administration recommends cross-cut shredding for sensitive or confidential information. Look for a vendor with [NAID AAA Certification](#).

A Statewide Master Price Agreement (MPA) 401 for shredding is available from the Division of Purchases/Contract Board here: <https://www.ridop.ri.gov/contract-board/>.

Paper Recycling/Pulping

Recycling turns used paper products into new paper products. Pulping, which is part of the recycling process, consists of mixing paper with water and chemicals until it becomes cellulose or pulp. Records to be recycled may be stored in either secured or unsecured designated bins until pickup. Records containing personally identifiable information (PII) should never be recycled.



Recycling records is only appropriate for documents that do not contain personal, sensitive, or confidential information. It is permissible to recycle any cross-cut shredded records.

Discarding/Disposal in Landfill

This includes disposing of records in garbage cans for eventual disposal in a landfill.



This method is not considered appropriate or secure for effective records disposal.

Best Practices for the Efficient and Secure Destruction of Electronic Documents

Deletion

Hitting the delete key destroys access to electronic documents, but information may be recovered using digital forensics. *This method is appropriate for non-confidential records only.*

Overwriting

Overwriting is the use of specific software that overwrites information multiple times. Records should be overwritten a minimum of three (3) times.

For a list of acceptable overwriting software, visit: <https://it.brown.edu/computing-policies/electronic-equipment-disposition-policy/data-removal-recommendations>

This method should involve input from your internal IT department and/or the Division of Information Technology.

Degaussing

Magnetic media, such as tapes, are exposed to strong magnets or a magnetic field which scrambles the data.

Physical Destruction

This method can include crushing, incineration, and/or pulverizing. Shredding also falls into this category. This method is appropriate for hard drives and removable electronic storage devices.

If the entire destruction process is not witnessed by staff, require the 3rd party vendor to provide a certification of data destruction. This certification will state that the records have been destroyed in compliance with internationally recognized standards and in accordance with applicable local, state, and federal regulations.



File this 3rd party certification record with your countersigned Certifications of Records Destruction. Countersigned Certifications of Records Destruction are permanent records and are the legal replacement for the records destroyed.

Required Certifications of Records Destructions, for all forms of records destruction in Rhode Island, are available from the [State Archives and Public Records Administration](#).

Preparing Records for Destruction

- Using the [approved retention schedules](#), determine which records in your custody are eligible for destruction.
- Destruction of records should take place, at a minimum, annually by either calendar or fiscal year.
- Draft a [Certification of Records Destruction](#) (CRD) including series numbers and series titles taken directly from the retention schedule. Using the precise language from the schedules will facilitate approval. **Do not alter non-records portions of the form.**



The default retention of public records is permanent. Records that are not scheduled cannot be destroyed until a retention period is assigned to them. Contact the [State Archives & Public Records Administration](#) for further information on scheduling records.

- Secure the signature of the appropriate records custodian, supervisor, agency head, or designee. Destruction of records (made or received) by a department, division, or office must be signed-off by the respective agency head/supervisor/custodian. Do not sign-off on the destruction of records that are not directly associated with your mandate, assigned duties, or responsibilities. Every office, agency, division, and department is responsible for the protection and security of their records.



By signing the form, you attest that all records cited have met their assigned minimum retention and there are no holds for litigation or other outstanding reasons.

- Submit the completed and signed CRD for countersignature to the Local Government Records Program (localgov@sos.ri.gov), or the Public Records Administration (records@sos.ri.gov) for state records. Once countersigned by the State Archives and Public Records Administration, the CRD will be returned to you and the records may be destroyed.

Disaster Response/Destruction

In the event records are compromised from natural or man-made disasters, implement your records management disaster plan. Records that have been affected may need remediation as they may not have met their required retention. State and local agencies may make use of Master Price Agreement (MPA) 397 for disaster recovery services.

This and other MPA's are available from the Division of Purchases/Contract Board here: <https://www.ridop.ri.gov/contract-board/>.



For Emergency Destruction of records that pose a hazard to health and safety, or records that were destroyed due to unanticipated events, contact the State Archives & Public Records Administration

Records Policies

The Importance of Policies

Agencies should have active, written policies for all records management activities. These policies should include policies for records storage, destruction, records security, digital preservation and managing email.

Policies ensure continuity of operations and educate all staff on the requirements, mandates, and other pertinent information for the agency.

Creating Policies

[Educational resources](#), including templates, webinars, and guidance documents, are available on our website to assist you in this process.

Helpful Resources

- Public Records Administration Promulgated Regulation
 - <https://rules.sos.ri.gov/regulations/part/100-40-05-1>
- Approved Records Retention Schedules:
 - https://sosri.access.preservica.com/index.php?name=sos_414a89cd-35a6-4656-a47a-05e093dee08d
- National Association for Information Destruction

- <https://naidonline.org/certifications/>
- Disaster Preparedness, Prevention and Response
 - <https://ri.dplan.org/>
 - <https://olis.ri.gov/manage/preservation/index.php>